IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 48 of 2005

MURLI
V/S
RAMESHWAR

Ms. SARITA MERTIA, for the appellant / petitioner

Mr. SN PUNGALIA, for the respondent

Date of Order : 21.2.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties, and perused the Judgments and decrees. I find that the findings recorded by both the courts below, on the question of reasonable and bonafide necessity, comparative hardship and partial eviction of the plaintiff, are pure findings of fact, which are not shown to be vitiated on the grounds available under Sec. 100 CPC. Since no other argument was raised, it cannot be said that the appeal involves any substantial question of law. The same is, therefore, dismissed.

However, with the consent of learned counsel for the parties, the appellant is granted one & half year's time to vacate the premises on the condition that the defendant gives an undertaking before the learned trial court within one month from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff, and that during this period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today, and shall further continue to deposit amount equal to the monthly rent by way of damages for use and occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above conditions, the respondent will become automatically entitled to execute the decree forthwith.

(N P GUPTA),J.

/Srawat/